

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Norfolk Division**

CSX TRANSPORTATION, INC.,)
individually and on behalf of NORFOLK)
& PORTSMOUTH BELT LINE)
RAILROAD COMPANY,)
)
)
Plaintiff,)
)
v.) Case No. 2:18-cv-530
)
)
NORFOLK SOUTHERN RAILWAY)
COMPANY, *et al.*,)
)
)
Defendants.)
)
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)

**MEMORANDUM IN SUPPORT OF DEFENDANTS' JOINT MOTION
TO FILE DOCUMENTS UNDER SEAL**

Defendants Norfolk & Portsmouth Belt Line Railroad Company (“NPBL”) and Norfolk Southern Railway Company (“NSR”) (collectively, “Defendants”), by counsel, state as follows in support of their Joint Motion to File Documents Under Seal. Defendants seek to file the following documents under seal: Defendants’ unredacted Reply in Support of Joint Motion to Compel Depositions of CSXT Witnesses (“Reply in Support of Joint Motion to Compel”) and Exhibits A and C to Defendants’ Reply in Support of Joint Motion to Compel.

1. On October 29, 2019, the Court entered a Stipulated Protective Order, which governs the parties’ use of confidential information produced in this case. ECF No. 79.
2. Paragraph 2 of the Stipulated Protective Order defines “Protected Material” as material containing information that “must or may be protected from disclosure,” including

material designated “CONFIDENTIAL” and “CONFIDENTIAL – ATTORNEYS’ EYES ONLY.” ECF No. 79, ¶ 2.

3. Defendants’ unredacted Reply in Support of Joint Motion to Compel and Exhibits A and C refer or cite to documents that have been designated “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL,” or “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” by Plaintiff CSX Transportation, Inc. (“CSXT”) under the Stipulated Protective Order.

4. These documents designated “CONFIDENTIAL,” “HIGHLY CONFIDENTIAL,” or “CONFIDENTIAL – ATTORNEYS’ EYES ONLY” contain highly confidential and sensitive information relating to CSXT’s transportation and shipping practices, business strategy, internal communications, and other highly confidential, proprietary, and sensitive business information, release of which would harm CSXT.

5. These documents are “Protected Material” under the Stipulated Protective Order. ECF No. 79, ¶ 2.

6. The Stipulated Protective Order requires Defendants to file these documents under seal. ECF No. 79, ¶ 16.

For the foregoing reasons, Defendants request that the Court enter the proposed order attached to the Motion to Seal as **Exhibit A** authorizing and directing Defendants to file the unredacted Reply in Support of Joint Motion to Compel Depositions of CSXT Witnesses and Exhibits A and C under seal, and directing the Clerk of Court to maintain such exhibits under seal pending further order of the Court.

Defendants also file herewith a Notice of Sealing Motion as required by Local Rule 5(C). Defendants waive oral argument on this Motion.

Dated: February 10, 2021

Respectfully submitted,

**NORFOLK & PORTSMOUTH BELT LINE
RAILROAD COMPANY and NORFOLK
SOUTHERN RAILWAY COMPANY**

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CERTIFICATE OF SERVICE

I hereby certify that on February 10, 2021, I electronically filed a copy of the foregoing with the Clerk of Court using the CM/ECF system, which sent a notification of such filing (NEF) to the registered participants as identified on the NEF to receive electronic service, including:

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